

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

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| UNITED STATES OF AMERICA, <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">vs.</div> LUIS PEREZ, <div style="text-align: center;">Defendant.</div> |)))))))))) | 8:02CR296 ORDER |
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This matter is before the court on the motion of Donald L. Schense to withdraw as counsel for the defendant, Luis Perez (Perez) (Filing No. 17). The court held a hearing on the motion on January 18, 2006. Chandler Thompson, a certified interpreter in the Spanish language, served as the interpreter by remote telephone hook-up. During the hearing the court determined the attorney-client relationship between Mr. Schense and Perez had ruptured to the point where the relationship could not be retrieved and the motion should be granted. The court further determined Perez remains eligible for appointment of counsel pursuant to the Criminal Justice Act, 18 U.S.C. §3006A, and the Amended Criminal Justice Act Plan for the District of Nebraska. During the hearing, the trial of this matter was rescheduled to March 20, 2006, in order to allow newly appointed counsel time to prepare the case. Perez agreed to the continuance and agreed that the additional time required for the continuance should be excluded under the Speedy Trial Act.

IT IS ORDERED:

1. Mr. Schense's motion to withdraw (Filing No. 17) is granted.
2. Michael L. Smart is appointed to represent Perez for the balance of these proceedings.
3. Mr. Schense shall forthwith provide Mr. Smart with the discovery materials provided the defendant by the government and such other materials obtained by Mr. Schense which are material to Perez's defense.
4. The Clerk shall provide a copy of this order to Mr. Smart and the Federal Public Defender for the District of Nebraska.

IT IS FURTHER ORDERED:

Trial of this matter is re-scheduled for **March 20, 2006**, before Senior Judge Lyle E. Strom and a jury. The ends of justice have been served by granting such continuance and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the continuance, i.e., the time between **January 18, 2006 and March 20, 2006**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 18th day of January, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge